

Louisiana Office of Alcohol & Tobacco Control

Direct Wine Shipper Registration

Pursuant to Act 460 (effective January 1, 2016) of the 2015 Regular Session of the Louisiana Legislature, La R.S. 26:359 was amended to require that prior to selling or shipping any sparkling wine or still wine directly to any consumer in Louisiana, a wine producer or manufacturer or retailer domiciled outside of Louisiana shall register with the state office of alcohol and tobacco control (ATC). The registration shall be renewed on an annual basis and updated within thirty days of any change of any information contained on the registration form.

NOTE: Direct Shippers who were properly registered with the Louisiana Department of Revenue (LDR) in accordance with La R.S. 26:359 prior to January 1, 2016 will have until March 10, 2016 to submit the attached registration form to ATC.

INSTRUCTIONS TO DIRECT SHIP WINE INTO LOUISIANA:

1. Review La R.S. 26:359 (attached) in its entirety and ensure that you fully understand all requirements and limitations.
2. Obtain an Authority to Ship from the Louisiana Department of Revenue (LDR). **To be renewed annually **
 - a. www.rev.state.la.us
3. Fully complete and submit the Louisiana Office of Alcohol and Tobacco (ATC) Control Direct Shipper Registration Form. (available at www.atc.la.gov under "Permits" → "Alcohol Applications")
 - a. There is no fee and you will not receive a permit from ATC. However, you will be contacted by our office should it be determined that there is any issue(s) with your submission.
 - b. Following initial registration with ATC, the registration form shall be completed and resubmitted on an annual basis by December 31st or within 30 days of any change in the information provided on the registration form since the last submission.
 - c. *All original and resubmission forms SHALL be signed by an owner, member or authorized manager of the entity seeking to direct ship wine to Louisiana consumers.*
4. File quarterly statements with LDR indicating the amount of sparkling wine or still wine shipped into the state of LA in accordance with La R.S. 26:359.
5. Remit excise and sales taxes to LDR in accordance with La R.S. 26:359.

For additional information, you can contact ATC at (225)925-4041 between the hours of 8:00am and 4:30pm Monday – Friday.

Louisiana Revised Statutes Title 26 Section 359

§359. Distribution of alcoholic beverages through wholesalers only

A. Except as provided in Subsection B of this Section and R.S. 26:271.1, no alcoholic beverages as defined in R.S. 26:241(1) produced or manufactured inside or outside of this state shall be sold or offered for sale in Louisiana, or shipped or transported into or within the state, except to the holder of a wholesaler's permit. Delivery of alcoholic beverages produced or manufactured inside or outside of this state shall be made at the place of business of the wholesaler shown on the wholesaler's permit, and must be received and warehoused by the wholesaler at that place of business, where such alcoholic beverages shall come to rest before delivery is made to any retailer.

B.(1) Notwithstanding the provisions of Subsection A of this Section, sparkling wine or still wine may be sold and shipped directly to a consumer in Louisiana by the manufacturer or retailer of such beverage domiciled inside or outside of Louisiana, or by a wine producer domiciled inside or outside of Louisiana, provided both that all taxes levied have been paid in full and that all of the following apply:

- (a) The consumer is twenty-one years of age or older.
- (b) The sparkling wine or still wine is for that consumer's personal consumption.
- (c) The total amount of sparkling wine or still wine shipped in seven hundred fifty milliliter bottles does not exceed one hundred forty-four bottles per adult person per household address per calendar year.
- (d) The wine producer, manufacturer, or retailer engaging in such direct sales holds a valid wine producer's, manufacturer's, or retailer's license issued by the state of its domicile.
- (e) The package in which the sparkling wine or still wine is shipped is prominently labeled as containing beverage alcohol.
- (f) The package in which such sparkling wine or still wine is shipped is received by a person twenty-one years of age or older.
- (g) The package contains an invoice indicating the date of the shipment, providing a full and complete description of all items included in the shipment, and stating the price thereof.
- (h) The wine producer, manufacturer, or retailer domiciled outside of Louisiana has complied with the provisions of Subsections C and D of this Section.
- (i) The seller or shipper who is a wine producer or manufacturer is not a party, directly or indirectly, to any agreement in which a wholesaler licensed by the state of Louisiana has been granted the right to purchase and to sell any sparkling wine or still wine produced by the manufacturer. This does not include any sale of sparkling wine or still wine perfected on the premises of the wine producer or manufacturer and completed by shipment to a consumer in Louisiana otherwise made in accordance with the provisions of this Subsection.

(2) For all purposes under this Title, the point of sale for transactions made pursuant to this Subsection shall be the place of domicile of the wine producer, manufacturer, or retailer. Delivery to the consumer in Louisiana shall be deemed to have occurred upon the placing of such beverages into the possession of a common carrier for transport into the state of Louisiana.

(3) In addition to the provisions of Paragraph (1) of this Subsection, prior to selling or shipping any sparkling wine or still wine directly to any consumer in Louisiana, a wine producer or manufacturer or retailer domiciled outside of Louisiana shall register with the state office of alcohol and tobacco control on a registration form promulgated by the commissioner. The

registration shall be renewed on an annual basis and updated within thirty days of any change of any information contained on the registration form.

C.(1) Any wine producer or manufacturer of sparkling wine or still wine engaging in the direct sale and shipment of such beverages under the provisions of Subsection B of this Section shall make an annual application to the secretary of the Department of Revenue for authority to make such shipments and shall pay an annual fee of one hundred fifty dollars to the Department of Revenue prior to selling or shipping any sparkling wine or still wine to a consumer in the state of Louisiana.

(2) Any retailer, domiciled outside of Louisiana, of sparkling wine or still wine engaging in the direct shipment of such beverages under the provisions of Subsection B of this Section shall make an annual application to the secretary of the Department of Revenue for the authority to make such shipments and shall pay an annual fee of one thousand five hundred dollars to the Department of Revenue prior to selling or shipping any sparkling wine or still wine into the state of Louisiana.

(3) The annual application for authority to make such shipments shall be in a written form specified by the secretary of the Department of Revenue, and shall include the express agreement of the wine producer, manufacturer, or out of state retailer to pay all excise and sales and use taxes assessed by the state of Louisiana on the sparkling wine or still wine sold and shipped pursuant to Subsection B of this Section. A copy of the current wine producer's, manufacturer's, or out of state retailer's license issued to such wine producer, manufacturer, or out of state retailer by the state in which the wine producer, manufacturer, or out of state retailer is domiciled shall be submitted to the secretary of the Department of Revenue with the application. No other permit or license shall be required of any such wine producer, manufacturer, or out of state retailer in connection with the direct shipment of sparkling wine or still wine pursuant to Subsection B of this Section.

D.(1) Any wine producer, manufacturer, or out-of-state retailer who sells and ships directly to a consumer in Louisiana pursuant to Subsection B of this Section shall file a statement quarterly indicating the amount of sparkling wine or still wine shipped to the state of Louisiana with the secretary of the Department of Revenue. The statement shall be filed by January twentieth, April twentieth, July twentieth, and October twentieth of each calendar year and shall indicate the total number of bottles sold and shipped during the preceding three-month period, the sizes of those bottles, the name brand of each sparkling wine or still wine included in such shipments, the quantities of each sparkling wine or still wine included in such shipments, and the price of each item included in such shipments. All excise and sales and use taxes due to the state of Louisiana on the sparkling wine or still wine sold and shipped pursuant to Subsection B of this Section shall be remitted by company check drawn on an account in the name of the permit holder or by electronic funds transfer at the time of the filing of the required statement, and copies of all invoices transmitted with each shipment shall be attached to the statement. This statement shall be made on forms prescribed and furnished by the secretary of the Department of Revenue and shall include such other information as the secretary of the Department of Revenue may require.

(2) Upon the request of the commissioner, the secretary of the Department of Revenue may provide copies of the annual application or quarterly statements filed by any wine producer or manufacturer or any out-of-state retailer selling or shipping wine directly to a Louisiana consumer.

(3)(a) Any person who transports sparkling wine or still wine for direct shipment into or out of the state in accordance with this Section shall register with the commissioner of the state office of alcohol and tobacco control.

(b) The commissioner shall promulgate rules in accordance with the Administrative Procedure Act for transport registrants that shall include regular reporting requirements related to size of containers and quantities of sparkling wine and still wine contained in each shipment. The rules shall include requirements that prevent sales and deliveries to underage persons.

(c) Any person who transports sparkling wine or still wine for direct shipment into or out of the state in violation of this Section or the administrative rules shall be subject to a civil penalty of up to twenty-five thousand dollars.

E. The provisions of R.S. 26:85, 142, 143, 348 through 350, 360, 364, and 365 shall not apply to wine producers, manufacturers, and retailers only in connection with direct sales and shipments when authorized to engage in the direct sale and shipment of sparkling wine or still wine under the provisions of Subsection B of this Section.

F. Any retailer domiciled outside of Louisiana or any wine producer or manufacturer who violates any provision of this Section shall be subject to a civil penalty in the amount of twenty-five thousand dollars. Any retailer domiciled outside of Louisiana or any wine producer or manufacturer that sells and ships directly to consumers in Louisiana pursuant to Subsection B of this Section shall, on the application for authority to make such shipments filed with the secretary of the Department of Revenue in accordance with Subsection C of this Section, acknowledge in writing the civil penalty established in this Subsection and shall consent to the imposition thereof upon violation of this Section. The secretary may initiate and maintain a civil action in a court of competent jurisdiction to enjoin any violation of this Section and to recover the civil penalty established in this Subsection, together with all costs and attorney fees incurred by the secretary incidental to any such action.

G. Upon determination by the secretary of the Department of Revenue or by the commissioner that an illegal sale or shipment of alcoholic beverages has been made to a consumer in Louisiana by either a wine producer, manufacturer, or retailer of such alcoholic beverages, the secretary or commissioner shall notify both the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury and the licensing authority for the state in which the wine producer, manufacturer, or retailer is domiciled that a state law pertaining to the regulation of alcoholic beverages has been violated and shall request those agencies to take appropriate action.

Amended by Acts 1960, No. 213, §1; Acts 1987, No. 696, §1; Acts 1998, No. 71, §1, eff. June 25, 1998; Acts 2001, No. 1032, §10; Acts 2005, No. 508, §1, eff. July 13, 2005; Acts 2006, No. 808, §1, eff. June 30, 2006; Acts 2011, No. 327, §1, eff. June 29, 2011; Acts 2015, No. 460, §1, eff. Jan. 1, 2016.